

Mondher Bejaoui
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USDC SDNY
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AUG 22 2013

The Honorable Judge

Sidney Stein
U.S. District Judge
500 Pearl Street
New York, NY 10007

Re: United States v. Mondher Bejaoui
10-CR-553 (SHS)

Dear Judge:

I write to respectfully bring to your honor attention that I attached copy to my objection to the presentence Investigation Report filed today. There is a fundamental disagreement between defense counsel Joshua Dratel, Esq and I regarding material information, sentencing guideline ranges, and policy statements.

Mr. Dratel do not wish to file objection to the (PSI) report but I have affirmative duty show that the information in the presentence report was inaccurate.

Also, please be advised that Mr. Dratel came to visit me in M-D-C Brooklyn on 08/15/2013, on this date he disclosed copy of the presentence report. If the probation office make the argument that this objection is untimely, then the argument must failed because pursuant to Rule 32 (f) federal Rule of Criminal Procedure I must file the objection within 14 days from receiving the presentence Report, although the date on the report stated June 19, 2013 and addendum on 07/11/2013 but the report was not disclose to me until 08/15/2013. I made numerous calls to Mr Dratel office between May 2013 and ~~08~~ August 2013, relied messages to Mr. Dratel via his employees, but did not receive any new information on my case except that my sentencing date was rescheduled from 07/11/2013 to September 18, 2013.

I respectfully request that the Court allow me to represent myself during the sentencing phase, because my defense attorney is not willing to object to inaccurate and untrue information within the presentence report.

Today Lindsay Lewis, Esq., an associate of Mr. Dratel informed me during a phone conversation that she will not object to the presentence report, rather she will file a sentencing letter, therefore this is not a sentencing letter, this is a request to allow my objection to the presentence Report, Also this is a request to allow me to represent myself and waive my right to a counsel

Dated: Brooklyn, NY

August 28, 2013

Respectfully submitted

Mondher Bejaoui

Mondher Bejaoui

08/20/2013

United States District Court
Southern District of New York

-----x
United States of America

Indictment No.

10-CR-563(SHS)

-v-

Mondher Bejaoui
defendant

-----x

Defendant's Objection to presentence
Investigation Report

Senior United States
Probation officer

Selwyn F. Foderingham, Jr
233 Broadway 14th floor
New York, NY 10279
212-805-5159

Mondher Bejaoui
Defendant

Assistant U.S Attorney

Kan Min Nawaday

One Saint Andrew Plaza
New York, NY 10007

08/20/2013

PART A: Presentence investigation Report finding:

According to the presentence investigation Report prepared by Senior U.S probation officer Selwyn F. Foderingham, Jr on 06/18/2013 and the Addendum to the presentence report on 07/11/2013 , the following is the offense level computation. Line 18 to 30 :

20. Base offense level § 2B1.1 (a) (1) , offense level seven 7

21. pursuant to § 2B1.1 (b)(1) (H) loss involved of more than \$400,000 but less than \$ 1,000,000 , a level 14 increase +14

22. pursuant to § 2B1.1(b) (10)(c) , sophisticated means , increase by two levels + 2

24: because defendant abused a position of public trust or a special skill increase two level pursuant to § 3B1.3 (?) + 3

2

(?) it is noted that an increase of two level pursuant to § 3B1.3 but the addition was three level , clear error.

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26. Adjusted offense level (subtotal) 26

27. Adjustment of Acceptance of Responsibility pursuant to §3 E1.1(a), the offense is reduced by two levels -2

30. Total offense level 24

PART B : Objection to presentence investigation Report.

This objection is governed by Rule 32 (f) of the federal Rule of Criminal procedure.

Although the report and addendum were prepared on 07/11/2013, I did not receive copy of the report until 08/15/2013, on an attorney visit Mr. Dratel and Ms Lewis indicate that this is the earliest time that they could visit me and afford me the opportunity to read the report. I was instruct Mr. Dratel to file objection to material information and he stated that he will include the objection on his sentencing submission

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to the District Court, therefore I am compelled to preserve my rights and file the objection within 14 days from 08/15/2013, the day I received copy of the presentence investigation Report (PSI)

I have affirmative duty to make showing that information in the (PSI) report were unreliable, it is also my duty to make articulate reasons why facts contained therein were untrue and inaccurate.

Objection NO.1 :

I object to line 24 of the (PSI) report, the enhancements of three level is error because pursuant to U.S sentencing guidelines Manual § 3B1.3 upward an adjustment of a two level, not three-level as indicate in the report. Also the adjustment does not apply to my case because I did not owe any special duty to the Plan or the insurance companies, and any fiduciary duty I owed

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to Brocklyn Village, Inc is not the type of position of public or private trust as contemplated by § 381.3. I have no special skill because I am not licensed by the department of Insurance, others in Brocklyn Village, Inc engaged in the specific conduct described in paragraph 8, 9, 10, 11, 12 and 13 of the (PSI) report -

My accounting degree was earned in Tunisia and I was not trained in United States nor I filed or obtain any special license from any U.S departments.

Therefore the enhancement added in line 24 of the (PSI) report do not apply in this case.

Objection No. 2

I object to the enhancement on line 22 of the (PSI) report that indicate a warrant to two-level increase because the offense involved sophisticated means, I contend that the base offense level provides sufficient punishment

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for my conduct ,also others in my office engaged in the specific conduct because they were licensed by the department of Insurance ,my assignment was to coordinate between Brooklyn Village ,Inc insurance broker and Geith Insurance agencies and the applicants that include liberty drivers and cars owners . There was not sophistication means ,I object to the enhancement because is not warranted by U.S sentencing guidelines Manual .

Objection NO.3.

I object to line 21 of the (PSI) report that indicate a 14- level increase is warranted pursuant to § 2B1.1 (b) (1)(H) ,this finding is not the outcome of the investigation rather a citing to what the government believe is the amount of Loss , on line 14 of the (PSI) the report reads : " According to the Government, Mondher

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Bejaoui is being accountable for having caused a loss of more than \$ 400,000".

The amount specified is a speculation and vague, there is no indication in the report on how the Government reached this amount, in fact the Government engaged in manipulation conducts by extending two plea agreements offers and in the first rejected offers, the Government estimated a loss of \$70,000 but less than \$120,000 and on the second plea agreement the amount suggested is \$120,000 but less than \$400,000.

The defendant object to amount of loss and to the undisclosed methods on counting this amount. further, the defendant contends that there is no losses occur during the conduct of the offense, there is no actual loss nor a gain loss -

Because the amount of loss is not the result of an independent

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finding of the probation office, I object to the unwarranted increase.

As a result I object to the guideline provision of line 54 of the (PSI) report, the guideline range for imprisonment 51 to 63 months is inaccurate.

furthermore, I preserve the right to file additional objection to the amended presentence investigation Report.

Dated: Brooklyn, NY

08/20/2013

C: U.S Assistant Attorney
Van Min Nawday

Respectfully Submitted,

* Mandher Bejaoui

Mandher Bejaoui

Defendant.

Defense Counsel
Joshua Dratel, Esq

Honorable Judge
Sidney Stein

08/20/2013

Certificate of Service

I, Monther Béjaoui, the defendant, hereby certify that on August 20, 2013, I caused a copy of the attached defendant's objection to Presentence Investigation Report to be sent via United States Postal Services to:

1- Selwyn F. Foderingham Jr
Senior probation officer
233 Broadway 14th floor
New York, NY 10279

2- U.S. Assistant Attorney
Kan Min Newday
One Saint Andrew's Plaza
New York, NY 10007

I declare under penalty of perjury that the foregoing is true and correct 28 U.S.C 1746

Dates : Brooklyn, New York
August 20, 2013

x Monther Béjaoui
Monther Béjaoui
Defendant